

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Missing Parts - Assistant Commissioner for Patents Washington, D.C. 20231

PATENT
Attorney Docket No.: 18928-1US

On 13 April 1999
By: Joe Lee



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
Takashi Kosaka et al.
Application No.: 09/183,797
Filed: October 30, 1998
For: SYSTEM FOR MODIFYING THE
FUNCTIONALITY OF COMPILED
COMPUTER CODE AT RUN-TIME

Examiner: Unassigned

Art Unit: Unassigned

PETITION FOR FILING PATENT
APPLICATION UNDER 37 CFR §1.47(a):
APPLICATION BY ASSIGNEE WHEN A
JOINT INVENTOR REFUSES TO SIGN
OR CANNOT BE FOUND

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

The above-cited application was filed without signed §1.63 declarations, and a Notice of Missing Parts was received. A response to that Notice of Missing Parts is filed herewith, along with signed §1.63 declaration from one of the two joint inventors named in this case.

The other joint inventor, Michael Plate, refuses to sign a §1.63 declaration, notwithstanding the fact that he is under an obligation to do so at the request of the assignee of the signing inventors interests, SegaSoft, Inc.. ("SegaSoft").

Therefore, SegaSoft petitions that it be allowed to proceed with prosecution of this application without Mr. Plate's signature, as allowed under 37 CFR §1.47(a). 098397

REQUIREMENTS OF 37 CFR §1.47(a)

37 CFR §1.47(a) allows a joint inventor to file an application on behalf of an inventor who refuses to execute an application for patent. The oath or declaration in such an application must be accompanied by a petition including (a) proof of the pertinent facts, (b) the

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fee required by §1.17(i), and (c) the last known addresses of the inventors. These requirements are satisfied below.

1. PROPRIETARY INTEREST

An Assignment was obtained from the signing inventor, Takashi Kosaka. The undersigned hereby verifies that the attached copy of the assignment is a true copy of the original assignment. This assignment evidences SegaSoft's proprietary interest in this application, and assigns all the signing inventor's interest in the application to SegaSoft. The assignment has been, or will be, filed for recordation under separate cover.

Even without an additional Assignment from Mr. Plate, title to the application is clearly with SegaSoft. The attached employment agreement shows that, in consideration for payment, Mr. Plate assigned, and agreed to assign, all Work Product in the subject inventions to SegaSoft (see Paragraph 2.A of the agreement). Mr. Plate agreed to execute documents requested by SegaSoft to procure and protect SegaSoft's patent rights. Furthermore, these agreements appoint SegaSoft as "attorney-in-fact to act for and in [Mr. Plate's] behalf and stead to execute, register and file any such applications, and to do all other lawfully permitted acts to further the registering, prosecution and issuance of patents, copyrights or similar protections with the same legal force and effect as if executed by consultant." Para. 2A.

Therefore, SegaSoft has a proprietary interest in the patent application at issue.

2. PETITION UNDER §1.47(a)

SegaSoft petitions the Patent and Trademark Office under 37 USC §1.47(a) to accept the Declaration signed by inventor Takashi Kosaka on behalf of Mr. Kosaka and the non-signing co-inventor, Michael Plate.

a) Proof of Pertinent Facts

Attached are letters dated January 5, 1999 and October 20, 1998 addressed to the last known address of Michael Plate. In the letters, the undersigned attorney of record, indicated that a lack of a response from Mr. Plate would be interpreted as a refusal to sign and

Takashi Kosaka et al.
Application No.: 09/183,797
Page 3

that application would proceed without Mr. Plate's signature. The January 5, 1999 letter was sent by certified mail, return receipt requested. A copy of the return receipt signed by a Sylvia V. Laminzia is attached. As of this date, Mr. Plate has not provided signed documents.

SegaSoft submits that this evidence is sufficient to conclude that Mr. Plate refuses to sign a §1.63 declaration.

This petition is necessary to preserve the rights of SegaSoft, since otherwise patent protection for an invention developed for SegaSoft at SegaSoft's expense cannot be obtained. The assignee has a right to have this patent examined, and allowing the prosecution of this patent to proceed without the signature of Mr. Plate is necessary to preserve that right.

b) Required Fee

Please charge the fee required by §1.17(i) for this petition, \$130, as well as any additional required fees, if applicable, or credit any overpayment, to this firm's Deposit Account #20-1430. Two copies of this petition are enclosed.

c) The Last Known Addresses of the Inventors

The last known address of the inventor is shown on the declaration. The last known address for Mr. Plate is:

Michael Plate
39120 Argonaut Way, Suite 353
Fremont, CA 94538

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OFFICE OF PETITIONS

Takashi Kosaka et al.
Application No.: 09/183,797
Page 4

PATENT

The requirements of 37 CFR §1.47 (a) have been met by this petition and accompanying documents, and therefore this petition should be granted and a filing date of October 30, 1998 granted for the present application. If the Patent Office has any questions, the undersigned can be reached at (415)576-0200.

Respectfully submitted,



Charles J. Kulas
Reg. No. 35,809

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
CJK:dlh
SF 208239 v1

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NOV 16 2001

OFFICE OF PETITIONS

JC978 U.S. PRO
09/03/97 04/20/01

SEGAsoft

CONSULTING AGREEMENT

This Consulting Agreement is entered into this 6th day of October 1997, by and between **SegaSoft Networks, Inc.**, a Delaware corporation with principal offices at 150 Shoreline Drive, Redwood City, California 94065 (hereinafter "SegaSoft") and **Mike Plate' dba Hemavac Ltd**, a sole proprietorship, with principal offices at 39120 Argonaut Way, Suite 353, Fremont, CA 94538 ("Consultant").

"Services" to be performed by Consultant are:

Consultant will provide programing services for the *Dynaplay* technology port to C++ and Microsoft foundation class environments as well as implementing revisions as necessary to the *Dynaplay* SDK.

"Start Date" is: October 6, 1997

"Completion Date" is: January 3, 1998

"Payment Terms" are: payable at the rate of One Hundred Dollars (\$100.00) per hour for a maximum of forty-four (44) hours per week on a biweekly basis as invoiced.

Consultant's "Key Individual" is: **Mike Plate'**

Consultant's Tax ID No.: on file

PAYMENTS WILL ONLY BE PROCESSED AGAINST AN ORIGINAL INVOICE WHICH DETAILS THE WORK PERFORMED.

1. Services.

A. Consultant agrees to undertake the Services and complete development of the Work Product and all deliverables associated with the Services. Consultant will start work on the Start Date and will complete performance of the Services no later than the Completion Date. Completion will be evidenced by SegaSoft's approval of all of the deliverables identified in this Agreement or otherwise associated with the Services and Work Product ("Deliverables"), and all documentation deemed necessary by SegaSoft to vest in SegaSoft all patent, copyright, trademark or trade secret rights which may exist in the Work Product and/or which are created or developed pursuant to the performance of the Services.

B. When Consultant has completed a Deliverable, Consultant will deliver it to SegaSoft for review. SegaSoft, at its discretion, will either accept the Deliverable or provide Consultant with a rejection notice setting forth requests for modifications (in which case Consultant will promptly make those modifications and again deliver the Deliverable to SegaSoft). The acceptance/rejection/correction provisions above shall be reapplied until the Deliverable is accepted; provided, however, that upon the third or any subsequent rejection, SegaSoft may terminate this Agreement.

2. Ownership of Work Product. All work papers, reports, documentation, drawings, photographs, film and all negatives, tapes and the masters therefor, prototypes, software or firmware programs (including source code, object code and listings) or other work of authorship developed or produced by Consultant under this Agreement, and all intermediate and partial versions thereof, as well as all program materials, flow charts and/or any other material, content, ideas or other work products generated pursuant to the work contracted for by SegaSoft shall herein collectively be known as "Work Product."

A. Consultant hereby transfers and assigns to SegaSoft the sole and exclusive right, title and interest in and to all such Work Product, and all copies thereof, along with all intellectual property rights therein, including without limitation copyrights, patents, patent applications and trade secrets, and agrees to assist SegaSoft, at SegaSoft's expense, but without further consideration, to register, and from time to time to enforce, all copyrights, patents, trade secrets and other rights and protections relating to the Work Product in any and all countries. To that end, Consultant agrees to execute and deliver all documents requested by SegaSoft in connection therewith, and irrevocably designates and appoints SegaSoft its agent and attorney-in-fact to act for and in its behalf and stead to execute, register and file any such applications, and to do all other lawfully permitted acts to further the registration, prosecution and issuance of patents, copyrights or similar protections with the same legal force and effect as if executed by Consultant.

B. SegaSoft recognizes that Consultant may have pre-existing property rights in certain tools, engines, or other materials which Consultant uses in performing this Agreement (hereafter "Pre-Existing Rights"). SegaSoft does not intend to abrogate or take away any such Pre-Existing Rights. In the event (and to the extent) that the Work Product contains any Pre-Existing Rights or other items or elements which may be proprietary to Consultant, Consultant hereby grants to SegaSoft an irrevocable, perpetual, non-exclusive, fully-paid, world-wide license to (a) use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based on Consultant's Pre-Existing Rights, and (b) authorize others to do any of the foregoing.

3. Copyright.

A. Consultant agrees that this Agreement conveys to SegaSoft all right, title and interest in and to the copyright in the Work Product. Consultant agrees that the rights being assigned comprise all the rights in the Work Product of every kind, nature and description, including, but not limited to, (a) the right to use, license, exploit, sell or otherwise dispose of the Work Product; (b) all publication rights therein, whether in book form or in magazines, newspapers, the Internet or otherwise; (c) the right to secure copyright thereon anywhere throughout the world; and (d) all subsidiary rights therein, such as stage, motion picture, radio, television, the Internet, mechanical reproduction, and commercial exploitation rights, and the like.

B. As the owner of all rights in and to the Work Product, SegaSoft can use the Work Product for any purpose and in any manner, now known or hereafter discovered, including (a) the right to make adaptations or versions of the Work Product or any part thereof for any purpose; (b) the right to produce, transmit, exhibit and exploit such adaptations and versions, or cause the same to be produced, transmitted, exhibited and exploited by any means or devices, now known or hereafter discovered; (c) the right to use the Work Product in whole or in part, to arrange and change the same, and add to or subtract therefrom; (d) the right to use the title of the Work Product in connection with any adaptation or version thereof, or in conjunction with other material not based on the Work Product, and the right to use the Work Product with a different title; and (e) the right to translate the Work Product and any adaptation or version thereof into any language for use in any medium.

C. The Work Product will recognize SegaSoft as copyright owner, will contain all proper copyright notices, e.g. "© (year of creation) SegaSoft, Inc. All rights reserved", and will be in condition to be registered or otherwise placed in compliance with registration or other statutory requirements throughout the world.

4. Payment. SegaSoft agrees to pay Consultant net 30 days against Consultant's invoice, according to the Payment Terms, provided that Consultant has complied with the terms of this Agreement, including completion of the Services by the Completion Date. It is understood and agreed that all expenses incurred during the performance of Consultant's work shall be the sole responsibility of Consultant.

5. Relationship of Parties. It is understood and agreed by the parties that Consultant is an independent contractor and that people provided by Consultant to perform work on SegaSoft's behalf are employees or agents of Consultant and that no joint venture, partnership, employment, agency or other relationship between SegaSoft and Consultant or Consultant's employees, agents or representatives is created by this Agreement. The parties agree that neither Consultant nor its employees, agents or representatives can contract on behalf of SegaSoft or otherwise obligate SegaSoft unless specifically authorized in writing by SegaSoft to do so. Consultant is solely responsible for all taxes, withholdings, and other similar statutory obligations, including, but not limited to, Workers' Compensation Insurance. Consultant will defend, indemnify and hold SegaSoft harmless from any and all claims made by any person or entity on account of an alleged failure by Consultant to satisfy any such tax or withholding obligations.

6. Key Individuals. SegaSoft and Consultant acknowledge that successful completion of the Services requires the knowledge and expertise of Key Individual(s). Therefore, the parties agree that all work to be performed pursuant to this Agreement will be performed by the Key Individual(s) when such work is within his/her/their expertise and, when outside his/her/their expertise, such work will be performed under his/her/their supervision. SegaSoft can terminate this Agreement if Consultant substitutes any Key Individual(s) or otherwise subcontracts performance of the Services which is within the expertise of the Key Individual(s).

7. Representation and Warranties. Consultant represents and warrants that (a) the Work Product, including all material, works, writings, ideas or dialogue, written, submitted or interpolated in and for the Work Product are original and have not been copied in whole or in part from any other work; (b) neither the Work Product nor any part thereof will violate the right of privacy or publicity of, nor constitute a libel or slander against, any person, firm or corporation; (c) the Work Product will not infringe upon the trade secret, patent, copyright, literary, dramatic, photoplay or common law rights of any person, firm or corporation; (d) neither the Work Product nor any intellectual property rights therein, including copyrights, are encumbered or subject to any undisclosed lien or claim; (e) no person or entity contributed to the Work Product and no person or entity has any interest therein, except as expressly disclosed to SegaSoft in writing; (f) it is free to make the present assignment; (g) it is under no legal obligation or prior commitment which is inconsistent with this Assignment; (h) any compensation due third parties in relation to the Work Product has been paid; and (i) the Work Product has not been published in any media or otherwise entered the public domain prior to this assignment to SegaSoft. Consultant shall hold SegaSoft and its successors, licensees and assigns harmless from any and all liability or loss, including reasonable attorney's fees, which they or any of them may suffer as a result of the breach of any of the representations and warranties.

-8. **Termination.** SegaSoft may terminate this Agreement according to the terms set forth in Section 1. B. with no further payment to Consultant. SegaSoft or Consultant may terminate this Agreement at any time upon written notice with a termination payment to Consultant covering Consultant's direct costs incurred in performance of this Agreement, less amounts previously paid to Consultant under this Agreement; provided, however, that SegaSoft will not be obligated to pay more in the aggregate than the amount which would have otherwise been due through the current milestone, if any.

9. **Confidentiality.** Consultant agrees that all information relative to SegaSoft's products or business or the work performed for SegaSoft belongs solely to SegaSoft, will not be used by Consultant for any purpose other than to perform the Services, and will not be used in connection with any of Consultant's other operations or work. All of SegaSoft's information or the information relating to the work performed by Consultant for SegaSoft which is not generally available to the public will remain the sole and exclusive property of SegaSoft and will be held in trust by Consultant for SegaSoft. Consultant will not disclose SegaSoft's information to others, except its employees and suppliers whose duties so require, in such event taking all precautions which are necessary or advisable to prevent the unauthorized use or disclosure of SegaSoft's information by such persons, including the execution by such persons of assignments of rights and confidentiality agreements. In addition, Consultant will not disclose the fact that it is providing services to SegaSoft, nor the terms of this Agreement, without SegaSoft's prior written consent.

10. **No Offer; Complete Agreement.** This Agreement does not constitute an offer by SegaSoft. It shall only be binding when fully signed by both parties. This Agreement represents the entire agreement between the parties with respect to its subject matter. Any modifications or changes will not be effective unless in writing and signed by Consultant and an authorized officer or employee of SegaSoft.

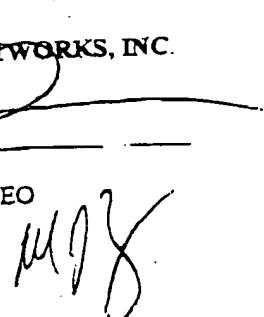
11. **No Assignment.** As SegaSoft has retained Consultant for its specific knowledge and expertise, this Agreement cannot be assigned by Consultant and any attempt to do so will be null and void.

12. **Choice of Law.** This Agreement shall be construed according to the laws of the State of California and any judicial proceeding involving this Agreement will be brought only in the Superior Court of California for the County San Mateo or the United States District Court for the Northern District of California.

SEGASOFT NETWORKS, INC.

By:

Gary Griffiths
President & CEO

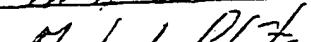


HEMAVAC, LTD.

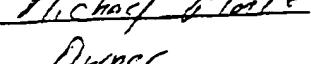
By:



Name:



Title:



Execute two original copies of this Agreement. Return original to Legal. Distribute copies to Finance and the managing Producer.

CONFIDENTIAL

TOWNSEND
and
TOWNSEND
and
CREW

LLP

Denver, Colorado
Tel 303 571-4000
Palo Alto, California
Tel 550 326-2400
Seattle, Washington
Tel 206 467-9600

San Francisco
Two Embarcadero Center
Eighth Floor
San Francisco
California 94111-3834
Tel 415 576-0200
Fax 415 576-0300
CJK@Townsend.com

January 5, 1999

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

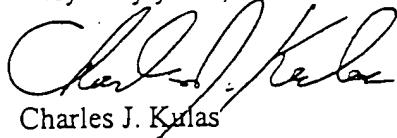
Michael Plate
39120 Argonaut Way, Suite 353
Fremont, CA 94538

Re: For: SYSTEM FOR MODIFYING THE
FUNCTIONALITY OF COMPILED COMPUTER
CODE AT RUN-TIME
Our File No.: 018928-000100US

Dear Mike Plate:

Enclosed for your signature are a Declaration and Assignment regarding the above-referenced patent application of which you are a co-inventor. Also enclosed for your convenience is a copy of the application as filed. Please sign the two documents and return them to us in the enclosed, postage paid, envelope as soon as possible. If you do not intend to sign documents, would you be so kind as to provide us with a written statement to that effect. Please provide us with either your written statement or the signed documents by January 13, 1999 as we have an upcoming deadline to file these documents.

Very truly yours,



Charles J. Kulas

CJK:dlh

Encs.: Declaration
Assignment
Return Postage Paid Envelope
Application as filed Drawings and Appendix

ASSIGNMENT OF PATENT APPLICATION

JOINT

WHEREAS, Michael Plate, of 39120 Argonaut Way, Suite 353, Fremont, CA 94538, hereinafter referred to as "Assignor," is the inventor of the invention described and set forth in the below-identified application for United States Letters Patent:

Title of Invention: SYSTEM FOR MODIFYING THE
FUNCTIONALITY OF COMPILED
COMPUTER CODE AT RUN-TIME

Date(s) of execution of Declaration: _____

Filing Date: Oct 30, 1998

Application No.: 09/183,797; and

WHEREAS, Segasoft, Inc., of 150 Shoreline Drive, Redwood City, CA, 94065, hereinafter referred to as "ASSIGNEE," is desirous of acquiring an interest in the invention and application and in any U.S. Letters Patent and Registrations which may be granted on the same;

For good and valuable consideration, receipt of which is hereby acknowledged by Assignor, Assignor has assigned, and by these presents do assign to Assignee all right, title and interest in and to the invention and application and to all foreign counterparts (including patent, utility model and industrial designs), and in and to any Letters Patent and Registrations which may hereafter be granted on any patent application claiming priority from the same in the United States and all countries throughout the world, and to claim the priority from the application as provided by the Paris Convention. The right, title and interest is to be held and enjoyed by Assignee and Assignee's successors and assigns as fully and exclusively as it would have been held and enjoyed by Assignor had this Assignment not been made, for the full term of any Letters Patent and Registrations which may be granted thereon, or of any division, renewal, continuation in whole or in part, substitution, conversion, reissue, prolongation or extension thereof.

Assignor further agrees that Assignor will, without charge to Assignee, but at Assignee's expense, (a) cooperate with Assignee in the prosecution of U.S. Patent applications and foreign counterparts on the invention and any improvements, (b) execute, verify, acknowledge and deliver all such further papers, including applications and instruments of transfer, and (c) perform such other acts as Assignee lawfully may request to obtain or maintain Letters Patent and Registrations for the invention and improvements in any and all countries, and to vest title thereto in Assignee, or Assignee's successors and assigns.

IN TESTIMONY WHEREOF, Assignor has signed his/her names on the dated indicated.

Dated: _____ Michael Plate

STATE OF CALIFORNIA)
COUNTY OF)
ss.

Assignment
Application No.: 09/183,797
Page 2

On _____, before me, _____, personally appeared
Michael Plate, personally known to me (or proved to me on the basis of satisfactory evidence)
to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

NOTARY PUBLIC

My Commission Expires: _____

DECLARATION

As a below named inventor, I declare that:

My residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **SYSTEM FOR MODIFYING THE FUNCTIONALITY OF COMPILED COMPUTER CODE AT RUN-TIME** the specification of which _____ is attached hereto or X was filed on Oct 30, 1998 as Application No. 09/183,797 and was amended on _____ (if applicable).

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56. I claim foreign priority benefits under Title 35, United States Code, Section 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

Country	Application No.	Date of Filing	Priority Claimed Under 35 USC 119

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

Application No.	Filing Date

I claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application No.	Date of Filing	Status

Full Name of Inventor:	Last Name: PLATE	First Name: MICHAEL	Middle Name or Initial:
Residence & Citizenship:	City: Fremont	State/Foreign Country: CA	Country of Citizenship: United States of America
Post Office Address:	Post Office Address: 39120 Argonaut Way, Suite 353	City: Fremont	State/Country: CA Postal Code: 94538

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature of Inventor	Signature of Inventor 1	Signature of Inventor 2
Michael Plate		
Date	Date	Date

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Michael Plate
39120 Argonaut Way, Suite 353
Fremont, CA 94538

4a. Article Number

P 194 259 867

4b. Service Type

- Registered
- Certified
- Express Mail
- Insured
- Return Receipt for Merchandise
- COD

7. Date of Delivery

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

X *Sylvia Villamil*

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Services.

P 194 259 867

US Postal Service
Receipt for Certified Mail

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Street & Number

39120 Argonaut Way, Suite 353

Post Office, State, & ZIP Code

Fremont, CA 94538

Postage \$

Certified Fee

Special Delivery Fee

Restricted Delivery Fee

Return Receipt Showing to Whom & Date Delivered

Return Receipt Showing to Whom, Date, & Addressee's Address

TOTAL Postage & Fees \$

Postmark or Date

PS Form 3800, April 1995

TOWNSEND
and
TOWNSEND
and
CREW

LLP

Denver, Colorado
Tel 303 571-4000
Palo Alto, California
Tel 650 325-2400
Seattle, Washington
Tel 206 467-9600

San Francisco
Two Embarcadero Center
Eighth Floor
San Francisco
California 94111-3834
Tel 415 576-0200
Fax 415 576-0300

October 20, 1998

JC978 U.S. PTO
09/839978
04/20/01



Michael Plate

Hemavac, Ltd.
39120 Argonaut Way, Suite 353
Fremont, CA 94538

Michael Plate:

As we discussed, with this letter please find a draft of a patent application for the Dynaplay technology along with formal papers for your signature. Your signature is needed on two documents. Namely, (1) on the Declaration so that we may submit the patent application naming you as a co-inventor and (2) on the Assignment so that assignment of the rights in the patent application can be formally recorded in the Patent and Trademark Office. We understand that you are no longer working for SegaSoft Networks, Inc. (SegaSoft) and that, although you have negotiated with SegaSoft, there exists some controversy and you may be reluctant to review the application and sign the enclosed formal papers.

As you are aware, we are representing SegaSoft in applying for the patent application. Please note that the Consulting Agreement signed by you, a copy of which is provided with this letter, recites at Paragraph 2.A that you agreed "to assist SegaSoft, at SegaSoft's expense, but without further consideration, to register, and from time to time to enforce, all copyrights, patents, trade secrets and other rights and protections relating to the Work Product in any and all countries." Thus, SegaSoft will assume the expenses of applying for the patent. However, you are not entitled to any further compensation in furtherance of the patent application.

SegaSoft views your current request for extremely high compensation to complete the patent application as a breach of the terms of the Consulting Agreement which requires you to "execute and deliver all documents requested by SegaSoft in connection" with the patent application. You have refused to accept a reasonable offer of \$150/hr. to review and execute the formal papers even though this rate is in excess of your standard consulting rate of \$100/hr. as recited by the Consulting Agreement, and even though this offer is unnecessary in view of your obligations under the Consulting Agreement.

Even if you do not provide SegaSoft with your signatures, SegaSoft will proceed with the patent application and assignment. Note that Paragraph 2.A "irrevocably designates and appoints

TOWNSEND
and
TOWNSEND
and
CREW
LLP

Michael Plate
October 20, 1998
Page 2

SegaSoft [your] agent and attorney-in-fact to act for and in [your] behalf and stand to execute, register and file" the patent application.

Although the initial filing of the patent application names you as a co-inventor it is possible, and even likely, that this will change over the course of prosecuting the patent. That is, the patent, or different versions of the patent, may ultimately issue without naming you as a co-inventor. This is because only those persons who invented the invention as claimed are entitled to be named as inventor's on the patent. It is our understanding that you contributed to the development of the "DynaGen" module. The initial conception and reduction to practice of all other aspects of the invention were performed by the primary inventor Takashi Kosaka. As we further determine which claims we will be pursuing, and what your contribution was, it may be necessary to remove you as a co-inventor.

Finally, we entreat you to reconsider your position and to perform the review of the draft and execution of the documents at the rate of \$150/hr. We estimate this will require no more than about 5 hours of your time, but any reasonable, good-faith effort at performing the review is acceptable. Please feel free to call me at 415-273-7571 regarding this matter. If we do not hear from you by October 23, 1998, we will go ahead and file the application as described above.

Sincerely,



Charles J. Kulas

CJK
SF 169863 v1

FORM PTO-1595 (Rev. 6-93)	Recordation Form Cover Sheet (Patents Only)	U.S. Department of Commerce Patent and Trademark Office
To the Honorable Asst. Commissioner for Patents. Please record the attached original documents or copy thereof		
1. Name of conveying party(ies): Takashi Kosaka Additional name(s) of conveying parties attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No.		2. Name and address of receiving party(ies) Name: Segasoft, Inc. Internal Address: Street Address: 150 Shoreline Drive City: Redwood City State: CA ZIP: 94065
3. Nature of conveyance: <input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other: Execution Date: 10-28-98		Additional names and addresses attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4. Application Number(s) or Patent Numbers. If this document is being filed together with a new application, the execution date of the application is: 10-28-98		
A. Patent Application No(s):		B. Patent No(s):
Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
5. Name and address of party to whom correspondence concerning document should be mailed: Name: Charles J. Kulas TOWNSEND AND TOWNSEND AND CREW LLP Two Embarcadero Center, 8 th Floor San Francisco, California 94111-3834 (415) 576-0200		6. Total number of applications and patents involved 1 7. Total fee (37 CFR 3.41): ----- \$40 <input type="checkbox"/> Enclosed <input checked="" type="checkbox"/> Charge Fees to Deposit Account <input checked="" type="checkbox"/> Charge any additional fees associated with this paper or during the pendency of this application, or credit any overpayment, to deposit account. 8. Deposit account number: 20-1430
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9. Statement and signature. <i>To the best of my knowledge and belief, the foregoing is true and correct and any attached copy is a true of copy of the original document.</i>		
<u>Charles J. Kulas</u> Name of Person Signing		 Signature
Atty Reg. No. 35,809		Total number of pages including cover sheet, attachments and document 3
10. Change Correspondence Address to that of Part 5? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
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